

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Frank Becher  
Serial No. : 09/980,917/Conf. No. 3850  
I.A. Filing Date : April 8, 2000  
Title : PROCESS AND DEVICE FOR INSCRIPTION OF A  
SHEET-LIKE ADHESIVE SYSTEM OF A  
POLYMER, ESPECIALLY OF A TRANSDERMAL  
THERAPEUTIC SYSTEM (per Preliminary Amendment)

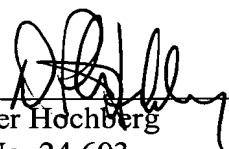
Box PCT  
Commissioner for Patents  
Washington, D.C. 20231

**STATEMENT**

Dear Sir:

I, D. Peter Hochberg, an attorney registered in the United States Patent and Trademark Office, declare that the application mailed to the Patent and Trademark Office on October 23, 2001 is the application which the inventor executed by signing the attached Combined Declaration and Power of Attorney.

Respectfully submitted,

By:   
D. Peter Hochberg  
Reg. No. 24,603

DPH/SFM / Attachments


D. PETER HOCHBERG CO., L.P.A.  
1940 East 6<sup>th</sup> Street, 6<sup>th</sup> Floor  
Cleveland, Ohio 44114  
(216) 771-3800

**EXPRESS MAIL CERTIFICATION UNDER 37 CFR 1.10**

"Express Mail" label number: EF170374095US

Date of deposit February 20, 2002

I hereby certify that the paper(s) identified above, and any document(s) referred to as attached hereto, is being deposited with the United States Postal Service on the date indicated in an envelope as "Express Mail Post Office to Addressee" and is addressed: BOX PCT, Assistant Commissioner for Patents, Washington, D.C., 20231.

  
Sean F. Mellino

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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COMPLETION OF MISSING REQUIREMENTS

I. (X) This replies to the office letter dated January 28, 2001.

(X) A copy of the Notice of Missing Requirements is enclosed.

EXTENSION OF TIME

II. Enclosed is a (check either (a) or (b), as applicable)

- (a) ( ) Petition and fee for extension of time  
(b) ( ) Conditional petition and fee for any extension  
of time which may be required

**WARNING:** Submission of the appropriate extension fee under 37 CFR 1.136(a) is to no avail **unless** a request or petition for extension is also filed. (Emphasis added). Notice of November 5, 1985 (1060 O.G. 27).

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Sean F. Mellino  
Sean F. Mellino

## DECLARATION OR OATH

- III. (X) No original declaration or oath was filed and enclosed is the original declaration or oath for this application.

OR

- ( ) The original declaration or oath which was filed was determined to be defective. A new original oath or declaration is attached.

NOTE: 37 CFR 1.41(a) points out that "Full names must be stated, including the family name and at least one given name without abbreviation together with any other given name or initial."

NOTE: For surcharge fee for filing declaration after filing date complete item VI(3) below.

NOTE: Acceptable minimums in the declaration for identification of the specification to which it applies are the name of the inventor **and** (1) serial number (2) attorney docket number which was on the application as filed and the filing date (3) title of the invention and filing date (4) title of invention and reference to a specification which is attached to the declaration at the time of execution and filed with the declaration or (5) title of invention and a statement by a registered attorney that the application filed in the PTO is the application which the inventor executed by signing the declaration. If identification (4) is used it must be accompanied by a statement that the "attached" specification is a copy of the specification and any amendments thereto which were filed in the PTO to obtain the filing date; such a statement must be a verified statement if made by a person not registered to practice before the PTO. Notice of September 12, 1983 (1035 O.G. 3).

NOTE: Another minimum found acceptable in the declaration is the filing date (i.e., date of express mail) and the express mail number, useful where the serial number is not yet known. But note the practice where the express mail deposit is a Saturday, Sunday or holiday within the District of Columbia. 37 CFR 1.10(c).

(complete (c) or (d), if applicable)

Attached is a

- (c) (X) Statement by a registered attorney that the application filed in the PTO is the application which the inventor(s) executed by signing the declaration.
- (d) ( ) Statement that the "attached" specification is a copy of the specification and any amendments thereto which were filed in the PTO to obtain the filing date.

## AMENDMENT CANCELING CLAIMS

IV. ( ) Cancel claims \_\_\_ inclusive..

## TRANSMITTAL OF ENGLISH TRANSLATION OF NON-ENGLISH LANGUAGE PAPERS

V. ( ) Submitted herewith is a verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the PTO.

## FEES

VI. **WARNING:** Failure to submit the surcharge fees where required will cause the application to become abandoned. 37 CFR 1.53(d).

NOTE: The filing fees, fees for claims and surcharge fees listed below in items 1,2 and 3 are reduced by 50% where proof of a small entity status is established on or before the date the fee is paid. If the full fee was paid by a verified statement is filed within 2 months of the date of timely payment of a fee then the excess fee paid will be refunded on request. 37 CFR 1.28(a).

### 1. Filing Fee

- ( ) original patent application (37 CFR 1.16(a) -\$710.00;  
Small entity - \$355.00 \$
- ( ) design application (37 CFR 1.16(f) -  
\$320.00; small entity - \$160.00) \$

### 2. Fees for claims

- ( ) each independent claim in excess of 3 (37 CFR 1.16(b) -  
\$80.00; small entity - \$40.00) \$
- ( ) each claim in excess of 20 (37 CFR 1.16(c) -  
\$18.00; small entity - 9.00) \$
- ( ) multiple dependent claim(s) (37 CFR 1.16(d) -  
\$270.00; small entity -\$135.00) \$

3. Surcharge fees

- ( ) late payment of filing fee and/or  
( X ) late filing of original declaration or oath  
(37 CFR 1.16(e) - \$130.00; small entity - \$65.00) \$ 130.00

NOTE: Even where a facsimile declaration or oath signed by the inventor(s) was part of the originally filed papers the surcharge fee is required.

NOTE: If both the filing fee **and** declaration or oath were missing from the original papers only one surcharge fee for both need be paid. 37 CFR 1.16(e).

4. ( ) Petition fee for filing by other than all the inventors or a person  
not the inventor (37 CFR 1.17(h) and 1.47 - \$130.00) \$  
5. ( ) Fee for processing an application filed with a specification in a non-  
English language (37 CFR 1.17(k) and 1.52(d) - \$130.00) \$  
6. ( ) Fee for processing and retention of application (37 CFR 1.21(l) and  
1.53(d) - \$130.00) \$

**Total fees \$ 130.00**

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**SMALL ENTITY STATUS**

- VII.** ( ) A verified statement that this filing is by a small entity  
( ) is attached  
( ) a separate refund request accompanies this paper  
( ) was filed on \_\_\_\_\_ (original)

NOTE: If an original verified statement **and** a refund request is filed within two months of the date of payment of a fee then the excess fee paid will be refunded on request. 37 CFR 1.28(a).

**PAYMENT OF FEES**

- VIII.** ( ) Enclosed is a check in the amount of \$ .  
( X ) Enclosed is a Credit Card Payment Form in the amount of \$130.00.  
( ) Charge Account No. 08-2441 in the amount of \$

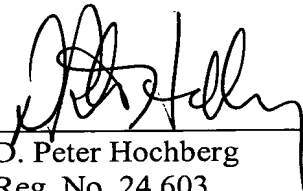
A duplicate of this request is attached.

## AUTHORIZATION TO CHARGE ADDITIONAL FEES

**WARNING:** Accurately count claims, especially multiple dependent claims, to avoid unexpected high charges if extra claims are authorized.

- (X) The Commissioner is hereby authorized to charge the following additional fees which may be required by this paper and during the pendency of this application to Account No. 08-2441.
- (X) 37 CFR 1.16 (filing fees)
  - (X) 37 CFR 1.16 (presentation of extra claims)
  - (X) 37 CFR 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
  - ( ) 37 CFR 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 CFR 1.311(b))

Respectfully submitted,

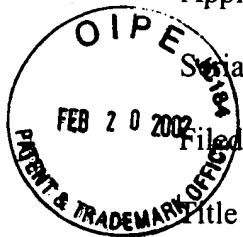
By:   
D. Peter Hochberg  
Reg. No. 24,603

DPH/SFM

Enc. - Credit Card Payment Form for fee

D. Peter Hochberg Co., L.P.A.  
The Baker Building  
1940 East 6th Street - Sixth Floor  
Cleveland, Ohio 44114  
(216) 771-3800

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ESPECIALLY OF A TRANSDERMAL THERAPEUTIC  
SYSTEM  
Examiner :  
Art Unit : 1615  
Attorney Docket : RO0360US (#90568)

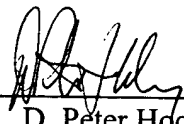
**LETTER**

Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

Enclosed herewith is a copy of the English translation of the International Preliminary Examination Report issued for International application No. PCT/EP00/03152 and corresponding to the above named application.

Respectfully submitted,

By:   
D. Peter Hochberg  
Reg. No. 24,603

DPH/sm

Att. - IPER

D. Peter Hochberg Co., L.P.A.  
The Baker Building - 6<sup>th</sup> Floor  
1940 East 6<sup>th</sup> Street  
Cleveland, OH 44114  
(216) 771-3800

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D. C. 20231.

on January 18, 2002  
Christine A. Roberts  
dated January 18, 2002

**Translation**

7

**PATENT COOPERATION TREATY**

**PCT**

**INTERNATIONAL PRELIMINARY EXAMINATION REPORT**

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference LTS 1998/042 PCT	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP00/03152	International filing date (day/month/year) 08 April 2000 (08.04.00)	Priority date (day/month/year) 23 April 1999 (23.04.99)
International Patent Classification (IPC) or national classification and IPC B41M 5/24, 5/26		
Applicant LTS LOHMANN THERAPIE-SYSTEME AG		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 1 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 28 September 2000 (28.09.00)	Date of completion of this report 15 June 2001 (15.06.2001)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.



## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP00/03152

## I. Basis of the report

1. This report has been drawn on the basis of (Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.):

- ☒ the international application as originally filed.
- ☐ the description, pages 1-8, as originally filed,  
pages \_\_\_\_\_, filed with the demand,  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_,  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_.
- ☐ the claims, Nos. \_\_\_\_\_, as originally filed,  
Nos. \_\_\_\_\_, as amended under Article 19,  
Nos. 1-8,9(part), filed with the demand,  
Nos. 9 (Part), 10-12, filed with the letter of 09 April 2001 (09.04.2001),  
Nos. \_\_\_\_\_, filed with the letter of \_\_\_\_\_.
- ☐ the drawings, sheets/fig \_\_\_\_\_, as originally filed,  
sheets/fig \_\_\_\_\_, filed with the demand,  
sheets/fig \_\_\_\_\_, filed with the letter of \_\_\_\_\_,  
sheets/fig \_\_\_\_\_, filed with the letter of \_\_\_\_\_.

2. The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

4. Additional observations, if necessary:

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 00/03152

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims	1-9	YES
	Claims	10-12	NO
Inventive step (IS)	Claims	1-9	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-12	YES
	Claims		NO

### 2. Citations and explanations

EP-A-688 678, which is considered to be the closest prior art, discloses (cf. column 3, lines 8-26; Claim 9) a method for labeling a two-dimensional polymer adhesive system with information using a movable laser beam that differs from the subject matter of Claim 1 in that damage to the constituent ingredients of the system is avoided and that, to this end, the intensity and penetration depth of the laser beam are adjusted according to the quality of the material of the system so that the laser beam does not penetrate to a layer of the system containing the constituent ingredients.

The subject matter of Claim 1 thus fulfills the criterion stipulated in PCT Article 33(2)).

The problem addressed by the present application can be seen as that of performing a labeling of the surface of a two-dimensional adhesive system without damaging the lower layers.

The solution to this problem proposed in Claim 1 of the present application involves an inventive step (PCT Article 33(3)) for the following reasons:

The proposed solution of material-specific control of the intensity and penetration depth is neither known from nor suggested by the relevant prior art.

Claims 2-9 are dependent upon Claim 1 and thus also meet the PCT requirements with respect to novelty and inventive step.

**Claims 10-12**

The article "Rechnergesteuerte Laserbeschriftungsgeräte," Kunststoffe, DE, Carl Hanser Verlag, Munich, Vol. 18, No. 9, Sept. 1988, page 771, discloses a device for labeling a two-dimensional adhesive system (see Drawing 1.3, label with barcode) having all of the features of the device according to Claims 10-12.

The subject matter of Claims 10 to 12 therefore does not fulfill the criterion stipulated by PCT Article 33(2).

**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claim 1 does not meet the requirements of PCT Article 6 because the subject matter for which protection is sought is not clearly defined. It is not clear to the reader of the claim where the constituent ingredients are located.

The independent claim does not include the fact that the layers to be labelled are located above the lower constituent ingredient containing layers (see description, page 4; page 5, first paragraph; page 6, second paragraph).